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10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE DISTRICT OF ARIZONA**

12 United States of America,

No. CR-18-00422-PHX-SPL-02

13 Plaintiff,

14 v.

15 Michael Lacey, *et al.*,

16 Defendants.

**DEFENDANT JAMES LARKIN'S
REPLY TO GOVERNMENT'S
RESPONSE (DOC. 466) TO
DEFENDANTS' JOINT MOTION FOR
DESIGNATION OF 39 DOCUMENTS
SUBJECT TO THIS COURT'S
DESTRUCTION ORDER TO BE
PRESERVED AS PART OF THE *IN*
CAMERA RECORD IN THIS
PROSECUTION**

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19 Defendant James Larkin, by and through his undersigned attorneys, hereby
20 replies to the government's Response (Doc. 466) to Defendants' Joint Motion For
21 Designation Of 39 Documents Subject To This Court's Destruction Order To Be
22 Preserved As Part Of The *In Camera* Record In This Prosecution (Doc. 453).
23 Defendants' joint motion stated that "Defendants are in the process of destroying the 39
24 documents." Doc. 453 at 2. Undersigned counsel's filing of this motion was notice to
25 the government of Mr. Larkin's compliance with the Court's order to the destroy the
26 documents. Mr. Larkin hereby provides direct notice to this Court that the documents

1 have been destroyed to the best of undersigned counsel's information and belief, though
2 counsel is in the process of ensuring that no back-up copies may exist on any back-up
3 server. However, as it is constitutional error for the government to withhold *Brady*
4 material from the defendant, the destroyed documents must be preserved as part of the
5 record for later review in this case or appellate review, if necessary, since the documents
6 clearly contain a large amount of *Brady* material.

7 Respectfully submitted,

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9 Dated: February 23, 2019

BIENERT, MILLER & KATZMAN, PLC

10 /s/ Thomas H. Bienert, Jr.

11 Thomas H. Bienert, Jr.

12 Whitney Z. Bernstein

13 Attorneys for James Larkin
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CERTIFICATE OF SERVICE

I certify that on this 23rd day of February 2019, I electronically transmitted a PDF version of this document to the Clerk of the Court, using the CM/ECF System, for filing and for transmittal of a Notice of Electronic Filing to the following CM/ECF registrants listed below.

/s/ Toni Thomas

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